

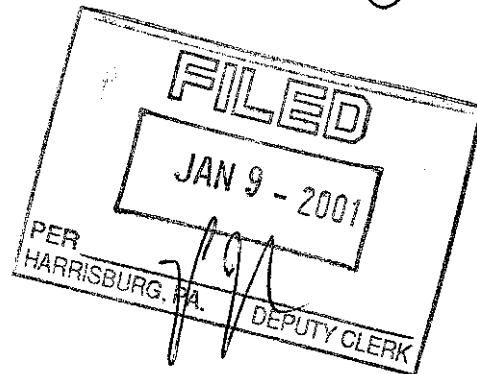
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD DAE
Plants

16

DR. ROBERT CLARK,
MARTIN L DRAGOLOVICH,
JOHN A PALATOVICH,
ROBERT N NOVAK NEY,
MICHAEL J KAAR AND
JOHN ANDRADES,
Defendants.

- CRM No. 10CR00-1090
U.S. District Judge Rad,
Magistrate Judge Smoyer



BRIEF IN SUPPORT OF MOTION REQUESTING COURT APPOINTMENT
MENTAL HEALTH EXPERT; INTER ALIA MOTION FOR SPA &

I. STATEMENT OF THE CASE

The Plaintiff John Richard Doe, a Pennsylvania State Prisoner pro se commenced this Civil Rights Action by a Complaint in this Court on June 5, 2009 against Defendant Dr. Clark, Ch'Ref Psych T/inst at the State Correctional Institution Camp Hill (SCI-Camp Hill), Pennsylvania, along with an Application for Leave to Proceed In Forma Pauperis.

On June 21, 2000, this Court granted plaintiff's leave to proceed in forma pauperis, herein the case.

On August 3, 2000, Plaintiff Richard Jao, filed his Amended Complaint
with the Superior Court of Pennsylvania. Plaintiff is challenging the actions of:
Mark L. Dragovich, Superintendent, SCS-Camp Hill,
Palakarich, Deputy Superintendent Centralized Services, SCS-Camp Hill; Robert N. Niles,
Deputy Superintendent For Facilities Management, SCS-Camp Hill; Michael J. Kozlowski,
and Classification Manager, Camp Hill; and John Andale, Hearing Examiner, SCS-Camp Hill, as
Defendants. On September 8, 2000, Defendants Dragovich, Palakarich, Niles, and Kozlowski
filed their Motion to Remove Plaintiff's In Forma Foipen's Status and to Defend
a Responsive Pleading to Plaintiff's Amended Complaint and Brief and App
In support here in this case.

In support, here in this case,

On October 6, 2000, U.S. Magistrate Judge G. Andrew Smoyer of this court held that Corrections Defendants had constructively challenged the constitutionality of the BIFRA amendment as the Corporation Defendants

- of imminent danger and issue the following order:

AND NOW, THIS 6th day of October 2000, IT IS HEREBY
ORDERED that within fifteen days of the date of this Order Defendants
Dragovich, Blatovitch, Novotney, Kozar and Andrade shall file any relevant
evidence they wish concerning the issue of imminent danger
and a supplemental brief in support of their motion within
fifteen days after the filing of the brief and evidence by Defendants
Dragovich, Blatovitch, Novotney [REDACTED] Kozar and Andrade the Plaintiff
shall file any relevant evidence he wishes concerning the issue
of imminent danger and a brief in opposition to the motion to
revoke Plaintiff's temporary protective status.

On October 23, 2000, Corrections Defendants filed their Supplemental Brief in Support of Motion to Strike Plaintiff's In Forma Pauperis Status And to Defeat filing of Responsive Plea. Plaintiff's Amended Complaint, Appendix and Supplemental Appendix B, Corrections Defendants' brief in support of motion to strike Plaintiff's In Forma Pauperis Status And to Defeat filing of Responsive Plea, Plaintiff's Amended Complaint herein this case.

On October 30, 2000, Plaintiff filed a Motion For Enlargement of Time herein, thus requesting that this Court grant him until December 13, 2000, in which to file his Rejoinder and/or Opposition to Defendants' Motion to Revoke Plaintiff's In forma Pauperis Status and Denying Plaintiff's Responsive Pleading to Plaintiff's Amended Complaint, herein this case, which was granted on November 27, 2000, allowing the Plaintiff until December 15, 2000, to file his Rejoinder and/or Opposition and/or Rebuttal, herein, stating no further extensions of time will be granted.

On or About Dec 10, 2020, the Court granted an extension of time for Plaintiff's Motion for Anteception to the Order of November 20, 2020, Enlargement of Time Inter Alia Motion for Anteception to the Court's Order of November 20, 2020, thus requesting that this Court grant him until Dec 30, 2020, in which to file his evidence and Brief in Opposition to Corrections Defendants Motion to Reckle Plaintiff's Interlocutory Status And To Deny Filing Of Response Pre Pleading #3 Plaintiff's Amended Complaint, further requesting that this Court grant him an exception to this Court's November 20, 2020, Order that no further extensions of time will be granted, which this Court granted on December 10, 2020, as per Plaintiff's Motion for Anteception.

The Plaintiff is now filing his Motion Requesting Court Appoint a Mental Health Expert, herein this case. This is his report in support of such Motion.

STATEMENT OF THE FACTS.

Plaintiff brings this suit against Defendant Dr. Robert Clark, the clinician at St. Camphill, alleging facts that the Plaintiff has a significant history of serious mental health illness disease and lengthy significant history of serious mental health illness disease that the Plaintiff had been in anti-psychotic medications since 1969, when

was only 9 yrs. old up until January 12, 1999, when Defendant Dr Clark took off of such, with the exception of a period of time from April 1, 1999-May 19, 1999 he was in psych. med. & totally that on April 24, 2000, without first normally examining, seeing & talking to this plaintiff to verify and determine that it was absolutely necessary to do such to this plaintiff, Defendant Dr Clark forced plaintiff placed in steel handcuffs, a black box and a steel wrist chain with a padlock in his cell in the RH Unit SCI-Camp Hill and off this plaintiff such black box, handcuffs and a steel wrist chain with a padlock from April 24, April 27, 2000, ordered such removed from this plaintiff, that such was done for purely purposes to punish this plaintiff for his behavior & that such was not least restrictive measure which could have been used & maintained humane treatment, that as a direct result of being placed & left in steel handcuffs, a black box, a steel wrist chain with a padlock by Defendant DR Clark from April 24, April 27, 2000, plaintiff was unable to eat or drink and had to stick his mouth down his food and drink and beat him like a dog, which was humiliating, but was really difficult to do, was unable to sleep, had extreme difficulty urinating and did not move his bowels at all because he could not urinate and most times would end up peeing all over himself when he did urinate, which was only humiliating, but was extremely uncomfortable as he had to remain in wet undershorts and that he suffered extreme unnecessary mental & physical pain and torture to his hands, wrists, arms & shoulders and permanent injury by way of both his wrists from the steel handcuffs and he will be scarred forever from such and that he had no feeling in his left hand, from right below his thumb to the base of his left thumb & such feels dead, that previously in April 2000, plaintiff tried to kill himself by swallowing nine (9) open metal & began to cough up blood and had to be taken to the emergency room at Holy Spirit Hospital in Camp Hill, PA, that he did this because he couldn't anymore in prison then and because he was hearing voices in his head which told him to kill himself, that on April 24, 2000, a few hours to him being placed in steel handcuffs, a black box, a steel wrist chain a padlock by Defendant Dr. Clark, plaintiff was attempted to kill himself by trying to split his head open by banging it on the cell wall.

because the voices in his head told him to do so, that despite Plaintiff Joe's attempts to take his life on April 23, 2000, and despite a prior mental health illness relapse back on February 16, 2000, where Plaintiff Joe rubbed feces all over his face/hair, arms, hands, chest & legs & on his cell wall & told Plaintiff that he was Jesus Christ and that the green men were running after his cell and trying to run up his ass & where he was banging his off of his cell wall then too, Defendant Dr. Clark deliberately & refuses to put Plaintiff Joe back on psychiatric medication and, deliberately & wantonly refuses to have Plaintiff Joe committed to a facility on a mental health commitment and wantonly and deliberately refuses to treat Plaintiff Joe for his mental health illness at all, that Plaintiff Joe believes that the next time he tries to kill himself he will do so for certain, as he is sick of living, and that Plaintiff Joe wants to get help and treatment for his mental health illness & has requested such from Defendant Dr. Clark and other PSC staff here, but has been denied such help/treatment by Defendant Dr. Clark, PSC Staff.

In his Amended Complaint against DB Corrections Defendants, Dragovich, Palatovich, Novotney, Kozar & Andrade, Plaintiff Joe alleges that he has been in the RHU at SCI-Camp Hill under disciplinary custody status/punitive Segregation since November 19, 1999, that his mental illness causes him to act out & misbehave that, in February, April, May & June, 2000, Defendant Andrade found plaintiff guilty of various misconducts & sentenced him to disciplinary custody status time even though such misconducts were a result of Plaintiff's serious mental health illness disease & that Defendants Palatovich & Kozar, Dragovich upheld such on Plaintiff's appeals to them, such that, Defendants Dragovich, Palatovich, Novotney & Kozar despite them being aware that Plaintiff suffers from serious mental health ill-

disease have left plaintiff TPP confined in the RHU on disciplinary custody status, that the officers in the RHU tease & agonize him, that on June 6, 2000, plaintiff TPP was sent to the Special Assessment Unit (SAU) at SCT-Ahmyard for a mental evaluation, he was returned back to SCT-Camp Hill on July 18, 2000, that, the Report from Wayman SAU recommends that plaintiff TPP be placed in a Prison Special Management Unit, and that, such placement in the SMU would be unlawful given his significant history of serious mental illness disease.

On October 24, 2000, Plaintiff TPP was transferred to & placed in the SMU, at SCT-Greene, Waynesburg, Pennsylvania.

III. ARGUMENT

Questions Presented.

SHOULD THIS COURT APPOINT A MENTAL HEALTH EXPERT IN THIS CASE TO EXAMINE THE PLAINTIFF AND FILE A REPORT AND MAKE A RECOMMENDATION TO THIS COURT?

[Suggested Answer Yes]

Plaintiff John Richard Greene avers & submits, that, herefromon in, the Corrections Defendants constructively have challenged Plaintiff's allegation that he was under imminent danger of seriously injuring himself in this case. Their primary argument appears to be that Plaintiff's suicide attempts were not real, that such were not more than attempts to manipulate the staff of SCT Camp Hill to achieve Plaintiff's goals and agendas, which they characterize as being responsible for his behavior and to avoid placement in the Special Management Unit, that Plaintiff was evaluated by mental health professionals with regular and extensive experience in dealing with inmates and that consistently the reports done on Plaintiff indicate that he is not a threat to himself or others.

Instead, Plaintiff plaintiff is stable, with no active mental health or concern and that, therefore, Plaintiff was not under imminent danger of serious physical injury and his Informa Parvus status should be revoked.

Concerning Defendants' claims & arguments apparent rest primarily upon the Report done on the Plaintiff by the SCT-Wayman SAU Psychiatrist and Treatment Team.

On the other hand, the Plaintiff claims & argues, that, he was under imminent danger of serious physical injury at the time of the incidents alleged in his initial complaint, herein, that the evidence which Corrections Defendants have submitted herein in this case is vital to whether Plaintiff was or was not under imminent danger of serious physical injury at the time/date(s) of the incidents alleged in his complaint, herein, that Corrections Defendants have failed to introduce any proof whatsoever that the SCT-Camp and SCT-Wayman SAU Staff are in fact trained mental health professionals and he has challenged the qualifications and also challenged the authenticity of the reports and records which Corrections Defendants have introduced as their evidence in this case, and he has contended that the SCT-Wayman SAU Psychiatrist's Report And Recommendation was prematurely made without the benefit of the results of the E.E.G. and M.R.I. Brain Tests which the SCT-Wayman SAU Psychiatrist's had ordered done on Plaintiff that Plaintiff showed that he has previously been diagnosed with a head injury and that his misconduct and behavior & his sexual acting out behavior both occur as a result of his serious mental health illness/disease, that he was under imminent danger of serious physical injury at the time of the incidents alleged in his initial complaint herein because he "was" suicidal and thus his Informa Parvus status should not be revoked.

These two opposing views herein this case are drastically opposite & each view presents material facts which are hotly & significantly disputed by the opposing view, thus such are conflict.

Plaintiff has filed a motion requesting an order of Court that the health care provider copy his Prison Psychiatric/Mental Health Records in order to review & copy his Prison Psychiatric/Mental Health Records in order to obtain and submit relevant evidence supporting his position that he suffers from a significant history of serious mental health illness. Plaintiff also states that he was suicidal on April 23rd, 2009 and that he was under imminent danger of serious physical injury on the date of the incident alleged in his initial complaint and to enable him to counter Defendants claims & arguments herein this case. Rather than do as the law requires and issue such order allowing the Plaintiff to review & copy his Psychiatric/Mental Health Records, the U.S. Magistrate and District Judge presiding over this case urged an assigning Local Rule of Court to illegally deny such records to Plaintiff thereby denying him his U.S. Constitutional Fourteenth Amendment Rights to process of law. At, neither the U.S. Magistrate nor the U.S. District Judge herein this case are trained licensed psychologists, no psychologists and are "not" legally qualified to make a psychiatric assessment.

that is based upon and given the above foregoing facts & arguments
herein, ~~RETS~~ Plaintiff's Court to appoint a medical
health expert (psychologist or psychiatrist) to examine the
plaintiff then submit a report and recommendation to the
Court (a copy of which shall be provided the plaintiff and the
Counsel for the Defendants) to aid this Court in making a medical
health determination and whether this plaintiff was or was
not under imminent [REDACTED] danger of serious physical injury at
time of the incident(s) alleged in the plaintiff's initial complaint
herein prior to this Court determining whether Defendants should
revoke plaintiff's pro forma Pauper status and to determine
if plaintiff's facts constituting filing a formal complaint with the
Court panel comical the Alabama State Bar.

Filing of responsive pleading to Plaintiff's Amended Complaint in this case and should stay its decision on such motion pending receipt of such report.

Plaintiff avers & submits, that the evidence rules also provide for appointed experts in prison cases

(See Fed-R-Evid. 706(a)), and several courts have appointed experts in prison cases. See Williams v. McKeithen, 963 F.2d 707, 712 (5th Cir. 1992); McKinney v. Anderson, 924 F.2d 1800, 1810-11 (9th Cir. 1991); Crabtree v. Collins, F.2d 99, 81 (8th Cir. 1990) and Balla v. Board of Corrections, 656 F. Supp. 1110 (D. Idaho 1987). See also Hodges v. Keane, 445 F.R.D. 222 (S.D. 1993) (requiring defendants who sought to have their psychiatrist examined by plaintiff to pay for the independent plaintiff's own expert).

Plaintiff avers & submits, that the relevant part of Fed-R-Evid. 706(a), states:

"(a) Appointment. The court may on its own motion or on the motion of any party enter an order to show cause why expert witness should not be appointed . . . and may appoint any expert witness agreed upon by the parties."

Pursuant to the above-cited rule, plaintiff requests this court to appoint an expert mental health witness in this cause of action on order requiring defendants, herein, to show cause why such an expert witness shall be appointed by this court, herein in this case, and he submits the name of Dr. Kupers M.D., Co-chair of the Committee on Persons with Mental Illness Behind Bars of the American Association of Community Psychiatrists and author of the book Addressing the Mental Health Crisis Behind Bars and What We Must Do About It (1992). As such court-appointed expert.

Even if the court declines to court-appointed Dr. Kupers or another mental health expert in this case, under the holding of Hodges v. Keane, cited above, this court should stay its order & require the correctional defendant to pay for this independent plaintiff's own expert, Dr. Kupers as defendant to pay for this independent plaintiff's own expert in this cause of action & should stay all further proceedings in this cause until Dr. Kupers or whatever mental health expert can examine plaintiff in his/her office until Dr. Kupers or whatever mental health expert can examine plaintiff in his/her office.

RESPECTFULLY SUBMITTED,

(6) — John Richard Jare

MR. JOHN RICHARD JARE

#BQ-3219

SCI-Greene/MC

175 Progress Drive

Waynesburg, PA 15370

Dated: 31st DECEMBER 2000